

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARIA DELOSANELES DELCID, INDIVIDUALLY	§	
AND AS NEXT FRIEND OF J.D., A MINOR	§	
	§	
	§	CIVIL ACTION No. 4:22-cv-38
Vs.	§	
	§	
FIESTA MART, L.L.C.	§	

NOTICE OF REMOVAL UNDER 28 U.S.C. 1441(B) AND 1367
OF FIESTA MART, LLC

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to Title 28, United States Code, Sections 1441(b) and 1446, Fiesta Mart, LLC, Defendant in Cause No. 2021-78906 in the 127TH District Court of Harris County, Texas, files this Notice of Removal under 28 U.S.C. 1332, 1367 and 1441(b) to remove the above-referenced matter from state court to the United States District Court for the Southern District of Texas, Houston Division. As set forth below, the United States District Court has jurisdiction over this case under Title 28, United States Code, Section 1332, because this is a civil action, complete diversity of citizenship would exist between the parties in interest, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

Citizenship of the Parties

1. Plaintiffs are residents and citizens of the State of Texas.
2. Defendant, FIESTA MART, LLC, is incorporated in the State of Delaware and has its principal place of business in the State of California.

Statement of Causes of Action/Amount in Controversy

As set forth in Plaintiffs' Original Petition, a true and correct copy of which is attached hereto, this case is based upon a cause of action for negligence for personal injuries sustained by

Plaintiffs due to Defendant's alleged negligence. Plaintiffs allege to have suffered bodily injuries after a fall caused by Defendant, FIESTA MART, LLC. It is alleged that Plaintiff slipped and fell on water leaking from a freezer. It is alleged Plaintiffs have suffered pain and mental anguish, medical treatment, disability and impairment. Plaintiffs specify that the amount of damages they claim to have sustained over \$200,000.00 but not more than \$1,000,000.00.

Timeliness of Removal

Plaintiffs' Original Petition was filed on December 3, 2021, and served on Defendant, FIESTA MART, LLC, December 7, 2021. This Notice of Removal is being filed on or before January 6, 2022, which is thirty days after the date of service.

Compliance with Local Rules

This Notice of Removal is being filed with an index of all matters being filed contemporaneously with this Notice (Exhibit "A"). All materials required to be filed with the Notice of Removal pursuant to Local Rule or Internal Operating Procedure 81 are being filed as reflected on Exhibit "A". To the extent that any required documentation is not submitted with this Notice of Removal, Defendant will supplement its Notice of Removal as soon as those documents become available.

PRAYER

WHEREFORE, PREMISES CONSIDERED, FIESTA MART, LLC, Defendant, prays that this matter be removed to the United States District Court for the Southern District of Texas, Houston Division, for a jury trial and determination.

Respectfully submitted,

MANNING, GOSDA & ARREDONDO, L.L.P.
Attorneys for FIESTA MART, LLC, Defendants

By: /s/ Gregory A. Schlak /s/
Gregory A. Schlak
State Bar No. 00784921
gschlak@mga-law.com
24 Greenway Plaza
Suite 525
Houston, Texas 77046
(713) 783-7070 - Telephone
(713) 783-7157 – Facsimile

CERTIFICATE OF SERVICE

I hereby certify that the I have complied with Rule 5 of the Federal Rules of Civil Procedure, that the original of the foregoing instrument has been e-filed in the Office of the United States District Clerk for the Southern District of Texas, Houston Division, together with this proof of service thereof, and that a true and correct copy of same has been forwarded on the 6th day of January, 2022 via United States mail, certified mail, return receipt requested, facsimile, e-mail or hand delivery to counsel for Plaintiff as follows:

Mr. Kraig L. Rushing
ATTORNEY AT LAW
2030 North Loop West, Suite 280
Houston, Texas 77018

MANNING, GOSDA & ARREDONDO, L.L.P.

By: /s/ Gregory A. Schlak /s/
Gregory A. Schlak